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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,829	02/28/2006	Jun Fujikami	017700-0184	5400
23392 7590 01/05/2010 FOLEY & LARDNER 555 South Flower Street SUITE 3500 LOS ANGELES, CA 90071-2411			EXAMINER CAZAN, LIVIUS RADU	
			ART UNIT 3729	PAPER NUMBER
			MAIL DATE 01/05/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/569,829

**Applicant(s)**

FUJIKAMI ET AL.

**Examiner**

LIVIOUS R. CAZAN

**Art Unit**

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5, 6, 8, 9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 6, 8, 9 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/2009 has been entered.

### ***Election/Restrictions***

2. Newly submitted claims 17-20 (group II) are directed to an invention that is independent or distinct from the invention originally claimed (group I, the embodiment directed to an interval between rolling and sintering, in claims 1, 3, 5, 6, 8, 9, and 11-16) for the following reasons:

3. Inventions I and II are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have different function and effect, due to their different process steps. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants. Group I, as examined is directed to a time interval between a step of rolling and a step of sintering,

whereas group II is directed to a time interval between a step of providing and a step of rolling. Had Applicant presented claims 17-20 along with the original claims, the Examiner would have required restriction to only one of the possibilities presented in alternative form in claims 1 and 3.

4. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Moreover, the embodiment directed to an interval between providing and rolling, in claims 1 and 3, is withdrawn, but will be reconsidered if the elected embodiment is either cancelled or found allowable, in accordance with Markush practice. See MPEP 803.02

#### ***Claim Objections***

5. **Claims 1, 3, 5, 6, 8, 9, and 11-16** are objected to because of the following informalities: "for the entire duration the" (claims 1 and 3) should be changed to --for the entire duration of the--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. **Claims 1, 3, 6, 9, and 11-14** are rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi (US6601289).

8. The rejection is maintained. See the Office Action mailed on 7/20/2009. Regarding the changes made to claims 1 and 3, it is deemed the temperature of the heater which provides heat to the wire is, necessarily set. As previously discussed, there must exist a time interval, less than seven days, such as, for example, one second, such that said wire is maintained at substantially constant temperature. See the Arguments below.

***Claim Rejections - 35 USC § 103***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. **Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi.**

11. The rejection is maintained. See the Office Action mailed on 7/20/2009.

***Response to Arguments***

12. Applicant's arguments filed 10/19/2009 have been fully considered but they are not persuasive. The current claim language does not overcome the prior art as applied in the Final Rejection. While the claims now recite a step of setting the temperature of a heater, there is no explicit link between the temperature of the heater and the temperature of the wire. More specifically, the claims merely require setting the temperature of the heater, *such that* the wire is maintained at a substantially constant temperature during the time interval. The claims do not state that the heater is set to a constant temperature, such that the temperature of the wire remains constant during the time interval. As currently claimed, the claims also read on setting the temperature of

the heater to slowly increase with time, such that the temperature of the wire increases gradually but remains essentially substantially constant for a small-enough time interval.

***Allowable Subject Matter***

13. Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIVIUS R. CAZAN whose telephone number is (571) 272-8032. The examiner can normally be reached on M-F 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DERRIS H. BANKS can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. Dexter Tugbang/  
Primary Examiner  
Art Unit 3729

/L. R. C./ 12/26/2009  
Examiner, Art Unit 3729